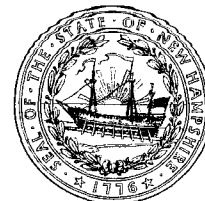




The State of New Hampshire
Department of Environmental Services

Michael P. Nolin
Commissioner



Polar Refrigerant Technology, LLC
89 Exeter Road
South Hampton, NH 03827-3614

RE: EPA ID No. NHD500002936

ADMINISTRATIVE ORDER
No. WMD 06-007

June 5, 2006

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Polar Refrigerant Technology, LLC pursuant to RSA 147-A:14. This Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 29 Hazen Drive, Concord, New Hampshire.
2. Polar Refrigerant Technology, LLC ("Polar") is a New Hampshire Limited Liability Corporation having a mailing address of 89 Exeter Road, South Hampton, NH 03287-3614.

C. STATEMENT OF FACTS AND LAW

1. RSA 147-A authorizes DES to regulate the management, including storage, treatment, containerization, transportation, and disposal of hazardous wastes. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Polar is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities as a small quantity generator of hazardous waste, a used oil marketer, and a used oil burner on September 10, 1998. EPA Identification Number NHD500002936 was assigned to Polar's site located at 89 Exeter Road, South Hampton, New Hampshire (the "Facility").
3. James Watkins Realty is the owner of real property at 89 Exeter Road, South Hampton, NH, more particularly described in a deed recorded in the Rockingham County Registry of Deeds at Book 1388, Page 4653, and identified on South Hampton Tax Map 3 as Lot 23 ("the Property").

4. As a result of a hazardous waste complaint received on September 13, 2002, Polar was inspected by DES on October 16, 2002 ("October 2002 Inspection"). On September 19, 2003, DES issued Letter of Deficiency No. WMD 03-23 ("LOD No. WMD 03-23") to Polar for violations of the Hazardous Waste Rules observed by DES during the October 2002 Inspection.
5. Polar has not been issued a Letter of Compliance for LOD No. WMD 03-23 and has continued to operate in violation of the Hazardous Waste Rules.
6. On November 1, 2005, DES personnel conducted a follow-up inspection (the "Inspection") of the Facility. The purpose of the Inspection was to determine Polar's compliance status relative to RSA 147-A, the Hazardous Waste Rules, and LOD No. WMD 03-23.
7. As a result of the Inspection, DES issued a Notice of Findings ("NOF") to Polar on December 30, 2005, requesting additional information regarding Polar's hazardous waste determinations, Polar's management of hazardous waste, Polar's use of solvents, and Polar's management of used oil.
8. At the time of the Inspection, DES personnel observed the use of Grime-Solv. Grime-Solv is a solvent which contains 40-46% tetrachloroethylene and 40-46% methylene chloride. The Grime-Solv is used in conjunction with disposable wipers to clean used oil and adhesives from the gas cylinders containing refrigerant upon receipt at the Facility. Per Dennis O'Brien, Polar Employee, the disposable wipers contaminated with Grime-Solv are disposed of as a solid waste.
9. The spent Grime-Solv, containing tetrachloroethylene and methylene chloride, is an F002 listed hazardous waste, as specified in Env-Wm 402.06(a).
10. Env-Wm 404.01(a)(1) specifies that any waste or material, mixed with any waste listed in Env-Wm 402.06(a) (Generic Industrial Process Wastes) shall be regulated as a hazardous waste.
11. The mixture of the F002 solvent and a disposable wiper is a F002 listed hazardous waste, as specified in Env-Wm 404.01(a)(1), ("F002 Wiper").
12. RSA 147-A:4, I, requires that any person operating a hazardous waste facility first obtain a permit from DES.
13. Disposal of F002 Wipers in a solid waste container is a form of disposal which requires a hazardous waste facility permit.
14. Env-Wm 353.01 specifies that an operator may obtain a hazardous waste facility permit through DES providing all applicable sections of Part Env-Wm 353 are met.
15. DES has no record of receiving a hazardous waste facility permit application from Polar to dispose of F002 Wipers in the solid waste container and no such permit has been issued.
16. Polar has been disposing of the F002 Wipers in the solid waste container without a hazardous waste facility permit.

17. At the time of the Inspection, DES personnel documented bills of lading that identified Polar as the transporter of used oil from the following facilities to Polar on the dates indicated:

- a. NE Trane on December 21, 2001;
- b. Southern Air, Inc. on March 7, 2002;
- c. Key Heating on June 24, 2002;
- d. Carrier Transicold on May 7, 2003; and
- e. Southern Air, Inc. on May 22, 2003.

18. RSA 147-A:6, I and Env-Wm 602.01(a) require, that no person shall transport hazardous waste into or within the State of New Hampshire without having a transporter registration issued by DES in accordance with Env-Wm 609.

19. Env-Wm 807.07(a) requires that transporters of used oil being recycled be subject to all of the requirements for hazardous waste transporters under Env-Wm 600.

20. DES has no record of receiving a hazardous waste transporter registration from Polar under Env-Wm 609 and no such transporter registration has been issued.

21. Polar has been transporting used oil without a hazardous waste transporter registration.

22. At the time of the Inspection, DES personnel observed at least twenty-four (24) containers (*i.e.*, 55-gallon drums and other smaller containers) of what appeared to be waste located behind the Facility, and stored on broken pallets over bare ground. Some of these containers were labeled as refrigerant, and the contents of the other containers could not be identified by Polar staff.

23. Env-Wm 502.01 requires a generator of a waste to determine if their waste is a hazardous waste.

24. At the time of the Inspection, adequate formal hazardous waste determinations had not been performed on the twenty-four (24) containers stored behind the Facility and the F002 Wipers generated by Polar.

25. Env-Wm 507.01(c) requires generators to provide secondary containment capable of containing the volume of the largest capacity hazardous waste container present when the hazardous waste is located near a sink with a functional drain present.

26. Spent acetone is an F003 listed hazardous waste, as specified in Env-Wm 402.06(a).

27. At the time of the Inspection, DES personnel observed one (1) 1,000-milliliter container marked "waste acetone" stored in the Laboratory on a countertop next to a functional sink drain with no provisions for secondary containment. See the attached Container Inventory ("Inventory").

28. Env-Wm 507.03(a)(1)b., c., and d. require containers and tanks used for the storage of hazardous waste to be clearly marked with the words "hazardous waste," words that identify the contents of the container, and the EPA or state waste number.

29. At the time of the Inspection, the one (1) 1,000-milliliter container marked "waste acetone" located in the Laboratory was not marked with the words "hazardous waste," and the EPA or state waste number. (See the attached Inventory).
30. Env-Wm 508.02(c) requires that generators post a "No Smoking" sign near ignitable or reactive wastes.
31. Env-Wm 402.06(a) designates acetone as an ignitable hazardous waste.
32. At the time of the Inspection, Polar had not posted a "No Smoking" sign near ignitable waste stored in the Laboratory.
33. At the time of the Inspection, DES personnel observed used oil spillage beneath a 1,500-gallon process tank located in the rear of the Facility and spillage of an oily liquid on the ground beneath the twenty-four (24) containers stored behind the Facility.
34. Used oil is a New Hampshire listed hazardous waste, with an assigned New Hampshire hazardous waste number of NH01, as specified in Env-Wm 402.06(c).
35. Env-Wm 513.02 requires generators, to immediately contain and clean-up, within 24 hours, any hazardous waste discharge, or submit a clean up plan within 5 days of the discharge, or submit a scope of work proposal for site investigations pursuant to Env-Wm 1403 to evaluate the potential impacts of the release on soil and groundwater. Additionally, RSA 147-A:9 states that any generator or operator who causes or suffers the disposal of hazardous waste in violation of RSA 147-A shall be strictly liable for costs directly or indirectly resulting from the violation relating to:
- a. Containment of hazardous wastes;
 - b. Necessary clean up and restoration of the site and the surrounding environment; and
 - c. Removal of the hazardous waste.
36. The used oil spillage beneath the 1,500-gallon process tank and the stained soil beneath the twenty-four (24) containers represent discharges of NH01 hazardous waste that the generator is required to clean up.
37. At the time of the Inspection, Polar had not cleaned up the discharges of NH01 hazardous waste beneath the 1,500-gallon process tank or beneath the twenty-four (24) containers. Furthermore, DES has no record of receiving a clean up plan or a scope of work proposal for site investigations from Polar.
38. Env-Wm 807.06(b)(4) requires that generators of used oil destined for recycling label their containers and tanks with the words "Used Oil for Recycle" at all times during accumulation and storage.
39. At the time of the Inspection, DES personnel observed the following unlabeled used oil containers: one (1) 2-gallon pail, two (2) 5-gallon containers, and one (1) 275-gallon tank (See the attached Inventory).

40. Env-Wm 807.06(b)(5) requires that generators of used oil destined for recycling ensure that containers or tanks are closed at all times, except when used oil is being added to or removed from the container or tank.
41. At the time of the Inspection, DES personnel observed the following open containers of used oil: one (1) 2-gallon pail, two (2) 5-gallon containers, and one (1) 275-gallon tank. (See the attached Inventory).
42. Env-Wm 807.06(b)(6) requires that generators of used oil destined for recycling manage containers and tanks of used oil in a manner so as to prevent spillage, seepage, or other discharge of used oil.
43. At the time of the Inspection, DES personnel observed used oil spillage beneath a 1,500-gallon process tank located in the rear of the Facility and spillage of an oily liquid on the ground beneath the twenty-four (24) containers stored behind the Facility.
44. Polar did not manage containers and a tank of used oil in a manner so as to prevent spillage, seepage, or other discharge of used oil.
45. At the time of the Inspection, DES personnel collected a sample of used oil from the 275-gallon used oil tank which accumulates the used oil prior to burning. The sample was analyzed for volatile organic compounds using EPA test method 8260B. See the attached "Results of Laboratory Analysis." The results are as follows:
- | <u>Sample Number</u> | <u>Constituent</u> | <u>Result</u> |
|----------------------|--------------------|---|
| B716-4 | Acetone | 90 milligrams per kilogram (mg/kg)
(parts per million, or ppm) |
| | Tetrachloroethene | 13 mg/kg |
46. Tetrachloroethylene and perchloroethylene are synonyms for tetrachloroethene which is identified as a hazardous waste, including but not limited to the following hazardous waste codes: D039, F001, F002, and U210.
47. Waste containing greater than 0.7 milligrams per liter (mg/L) of tetrachloroethylene is a hazardous waste, exhibiting the characteristic of Toxicity, with an assigned EPA hazardous waste number of D039, as specified in Env-Wm 403.06(d).
48. Env-Wm 807.04(a)(2) states that "used oil shall be classified as a hazardous waste and shall be managed in accordance with the hazardous waste rules if it exhibits a hazardous waste characteristic as set forth in Env-Wm 403."
49. Polar generates an F003 hazardous waste acetone in its laboratory.
50. Neither DES nor Polar have records, specifically hazardous waste manifests, showing that Polar has shipped hazardous waste acetone off-site since it notified the EPA of its hazardous waste activities in September 1998.

51. At the time of the Inspection, DES personnel did not observe any other containers of hazardous waste acetone, except for the one (1) 1,000-milliliter container stored in the Laboratory.
52. During a telephone conversation with DES on December 19, 2003, David Gregory, a Polar employee was asked how Polar manages its hazardous waste acetone; the Polar employee stated that the hazardous waste acetone is burned in the space heater with used oil.
53. Env-wm 807.01(c)(3) and Env-Wm 807.06(b)(10) prohibit used oil being recycled from being mixed with any other waste identified as a hazardous waste under Env-Wm 400.
54. The "Results of Laboratory Analysis" indicate that the used oil has been mixed with hazardous waste acetone and hazardous waste tetrachloroethylene.
55. Polar has apparently been mixing its used oil with hazardous waste (*i.e.*, acetone [F003] and tetrachloroethylene [D039], which has caused the contents of the 275-gallon used oil tank to be regulated as a hazardous waste mixture with the hazardous waste codes F003 and D039.
56. Env-Wm 807.07(b) requires transporters of used oil being recycled to use a bill of lading which meets the requirements of Env-Wm 807.06(b)(13).
57. The bill of lading, as described in Env-Wm 807.06(b)(13) a. through f., must include:
- a. A shipment number unique to each shipment;
 - b. The name and site address of the generator/shipper, transporter/carrier, and receiving facility/consignee;
 - c. The EPA identification numbers of the shipper, if the shipper is required by Env-Wm 504 to have a number, the transporter, and the receiving facility;
 - d. The quantity of used oil to be delivered;
 - e. The date(s) of shipment and delivery; and
 - f. The following statement signed by the generator: "This used oil is destined to be recycled and is subject to regulation by the New Hampshire department of environmental services under Env-Wm 807. I certify that this used oil is not a hazardous waste fuel as defined in Env-Wm 807.04 and that I have not mixed this used oil with any other hazardous wastes identified in Env-Wm 400 or any used oil classified as hazardous waste fuel under Env-Wm 807.04."
58. The bills of lading used by Polar did not contain a unique shipment number and did not contain the statement described in C.57.f.
59. Env-Wm 807.08(a)(1)b. identifies a used oil marketer as persons who receive used oil from generators and produce, process, or blend used oil fuel from the used oils received, including persons sending blended or processed used oil to brokers or other intermediaries.
60. Polar receives used oil contaminated with refrigerant, processes the used oil to remove the refrigerant, and then burns the used oil for energy recovery.
61. Polar is a used oil marketer.

62. Env-Wm 807.09(b)(3) requires used oil marketers to perform sampling and analyses, in accordance with Env-Wm 807.05, for the parameters specified in Env-Wm 807.02 and Env-Wm 807.03 on used oil being marketed.

63. At the time of the Inspection, Polar was not sampling and analyzing batches of used oil being marketed.

64. Env-Wm 807.09(b)(12)d. requires that used oil marketers keep on file an operating log, with the following information regarding each shipment of used oil fuel, for 3 years from the date of shipment:

1. The name and address of the facility receiving the shipment;
2. The quantity of used oil fuel delivered;
3. The date of shipment or delivery; and
4. A cross-reference to the record of the used oil analysis, including the batch code or number.

65. At the time of the Inspection, the operating log provided by Polar did not have the address of the recipient or the cross-reference to the batch analyses.

66. Env-Wm 1102.03(c)(1) requires universal waste handlers to store universal waste in containers that are closed, except when universal waste is being added to or removed from the container.

67. At the time of the Inspection, DES personnel observed one (1) 55-gallon container of 8-foot universal waste lamps located in the maintenance area which could not be closed.

68. Env-Wm 1102.04(a)(1) prohibits universal waste handlers from accumulating universal waste for longer than one year from the date that universal waste becomes a waste or is received from another handler unless the requirements of Env-Wm 1102.04(b) are met.

69. At the time of the Inspection, DES observed one (1) 55-gallon container of 8-foot universal waste lamps marked "1/16/03- Universal Waste Fluorescent Lamps" stored on-site for longer than one year.

D. DETERMINATION OF VIOLATIONS

1. Polar has violated RSA 147-A:4, I and Env-Wm 353.01 by failing to obtain a permit for the disposal of an F002 hazardous waste as a solid waste (*i.e.*, F002 Wipers).

2. Polar has violated RSA 147-A:6, I and Env-Wm 602.01(a) by failing to obtain a New Hampshire Hazardous Waste Transporter registration prior to transporting hazardous waste, specifically used oil.

3. Polar has violated Env-Wm 502.01 by failing to determine if its waste is a hazardous waste.

4. Polar has violated Env-Wm 507.01(c) by failing to provide secondary containment for containers of hazardous waste stored near a functional sink drain.

5. Polar has violated Env-Wm 507.03(a)(1)b., and d. by failing to mark each hazardous waste container with the words "hazardous waste," and the EPA or state waste number when the containers are first used to store hazardous waste.
6. Polar has violated Env-Wm 508.02(c) by failing to post "No Smoking" signs in storage areas with ignitable or reactive waste.
7. Polar has violated Env-Wm 513.02(a) by failing to immediately contain and clean up, within 24 hours, any hazardous waste discharge or discharge of a material which, when discharged becomes a hazardous waste.
8. Polar has violated Env-Wm 807.06(b)(4) by failing to mark used oil containers with the words "Used Oil for Recycle."
9. Polar has violated Env-Wm 807.06(b)(5) by failing to close used oil containers and a tank.
10. Polar has violated Env-Wm 807.06(b)(6) by failing to maintain and operate containers and a tank of used oil for recycle in a manner so as to prevent spillage, seepage, or other discharge of used oil into storm or sanitary sewers, onto the land or into ground or surface waters.
11. Polar has violated Env-Wm 807.06(b)(10) by failing to ensure that used oil is not mixed with any other hazardous waste.
12. Polar has violated Env-Wm 807.07(b) by failing as a transporter of used oil to utilize a bill of lading which meets the requirements of Env-Wm 807.06(b)(13).
13. Polar has violated Env-Wm 807.09(b)(3) by failing as a marketer of used oil to sample and analyze each batch of used oil received from off-site.
14. Polar has violated Env-Wm 807.09(b)(12)d. by failing as a marketer of used oil to maintain an operating log which contains the address of the facility receiving the shipment and a cross-reference to the record of the used oil analysis, including the batch code or number.
15. Polar has violated Env-Wm 1102.03(c)(1) by failing to close universal waste lamp containers.
16. Polar has violated Env-Wm 1102.04(a)(1) by failing to dispose of universal waste lamps within one year of the date the universal waste becomes a waste.

E. ORDER

Based on the above findings, DES hereby orders Polar as follows:

1. **Immediately** cease and desist the disposal of the F002 Wipers as solid wastes.
2. **Immediately** manage all hazardous wastes, including the F002 Wipers and the 275-gallon tank of used oil contaminated with acetone and tetrachloroethylene, according to the applicable rules of Env-Wm 500, including, but not limited to:

- a. The Environmental and Health Requirements specified in Env-Wm 506;
- b. The Storage Requirements specified in Env-Wm 507.01;
- c. The Storage Time Requirements specified in Env-Wm 507.02;
- d. The Packaging/Labeling/Pre-transport Requirements specified in Env-Wm 507.03;
- e. The Small Quantity Generator Requirements specified in Env-Wm 508.02;
- f. The Small Quantity Generator Extended Quantity and Storage Provisions specified in Env-Wm 508.03; and
- g. The Delivery Requirements specified in Env-Wm 511.01.

3. **Immediately** cease mixing waste solvents, specifically acetone and tetrachloroethylene, with the used oil destined for recycling.

4. **Within thirty (30) days** of the date of this Order, ensure that all hazardous waste currently stored on-site, specifically the F002 Wipers and the 275-gallon tank of used oil contaminated with acetone (F003) and tetrachloroethylene (D039), is delivered to a facility authorized to handle the hazardous waste, via a New Hampshire registered hazardous waste transporter using an 8 part prenumbered EPA/DOT uniform hazardous waste manifest, EPA Form 8700-22. Submit a copy of the manifest used for the transportation of this hazardous waste to DES.

5. **Within thirty-five (35) days** of the date of this Order, submit the following information:

- a. A written estimate of how long (*i.e.*, years and months) Polar has been disposing of the F002 Wipers as a solid waste;
- b. A written estimate of the quantity of F002 Wipers disposed of during the time period reported in response to question (a);
- c. The names of each destination facility which has received the F002 Wipers, as well as the relative quantities disposed of at each facility;
- d. The estimated cost of disposal of the F002 Wipers as a hazardous waste versus disposal as a solid waste;
- e. A written estimate of how long (*i.e.*, years and months) Polar has been mixing hazardous waste solvents (*i.e.*, acetone and tetrachloroethylene) with used oil to be recycled;
- f. A written estimate of the quantity of hazardous waste solvents mixed with the used oil to be recycled during the time period reported in response to question (e); and

- g. The estimated cost of disposal of the hazardous waste solvents as a hazardous waste.
6. **Immediately** cease transporting hazardous waste within New Hampshire without a hazardous waste transporter registration. If Polar chooses, Polar may obtain the necessary application and paper work to obtain a New Hampshire hazardous waste transporter registration by contacting Pamela Welch, DES Reporting Information Management Section, at (603) 271-2659.
7. **Immediately** ensure that secondary containment is provided for hazardous waste containers stored in areas with functional sink drains. The secondary containment must be capable of containing the volume of the largest capacity hazardous waste container present.
8. Under RSA 147-A:9 and Env-Wm 513.02, Polar must submit a written scope of work prepared by a qualified environmental consultant that will determine the nature and extent of soil contamination from the hazardous waste discharged to the environment caused by some of the contents of the twenty-four (24) containers leaking onto the ground behind the Facility. In addition, this scope of work will need to include a groundwater investigation to determine if, and to what extent, the hazardous waste discharge has impacted the groundwater on this site. If the groundwater shows a violation of the Groundwater Quality Criteria, in accordance with Env-Wm 1403.03, Polar must initiate activities to satisfy the requirements of Env-Wm 1403.07 Site Investigation.
- a. **Within 35 days** submit a status report identifying the consultant required by paragraph 12 above and provide documentation that certifies the consultant has been retained.
 - b. **Within 60 days** submit two copies of the scope of work to DES. DES will review and comment on the scope of work.
 - c. **Upon written DES approval of the scope of work, Polar shall implement the soil and groundwater investigation in accordance with the schedule contained within the scope of work.**
 - d. **Upon completion of the scope of work for the soil and groundwater investigation, Polar will provide for the clean-up of the hazardous waste that has been discharged.**
- Polar is strictly liable for any necessary clean-up and restoration of the property under RSA 147-A:9.
9. **Immediately** ensure that all containers and the tank of used oil are managed in a manner so as to prevent spillage, seepage, or other discharge of used oil as specified in Env-Wm 807.06(b)(6).

Note: In a submittal dated February 7, 2006, Polar's representative, Dennis O'Brien, informed DES personnel that Polar will train its personnel. Please submit written documentation outlining the contents of the training and provide documentation that the employees have received the training.

10. **Immediately** ensure that an operating log is used with the following information regarding each shipment of used oil fuel and retain these records, for 3 years from the date of shipment as specified by Env-Wm 807.09(b)(12)d.:

1. The name and address of the facility receiving the shipment;
2. The quantity of used oil fuel delivered;
3. The date of shipment or delivery; and
4. A cross-reference to the record of the used oil analysis, including the batch code or number.

Note: In a submittal dated February 7, 2006, Polar's representative, Dennis O'Brien provided a copy of a used oil log to be used by Polar, however; this log did not include the date of shipment or delivery. Please update the used oil log to contain the date of shipment or delivery.

11. **Immediately** ensure that universal waste containers are closed except when universal waste is actually being added to or removed from the container, as specified in Env-Wm 1102.03(c)(1).

Note: In a submittal dated March 30, 2006, Polar's representative, Dennis O'Brien, submitted documentation that the container of fluorescent lamps has been shipped off-site to Complete Recycling Solution, LLC, Fall River, MA.

Please provide written documentation as to how Polar is currently storing fluorescent lamps generated at the Facility. Per Env-Wm 1102.03(c) universal waste must be stored in containers that are compatible with the contents and must be closed except when universal waste is being added to or removed from the container.

12. Submit a written status report to DES **within thirty-five (35) days** of the date of this Order, certifying that corrective measures have been implemented for items 1 through 11. In addition, following the 35-day report, **submit written status reports by the first of each month** until Polar achieves full compliance with this Order. Include in the reports supporting documentation describing those measures taken to achieve compliance and copies of any written plans or proceedings developed.

13. Please send all submittals, **other than appeals**, to:

Tammy Calligandes, Waste Management Specialist
DES, WMD
P.O. Box 95
Concord, New Hampshire 03302-0095

Based on information received by DES, the following items 14 through 22 have been corrected as noted:

14. Polar performed a hazardous waste determination as specified in Env-Wm 502.01 for the drums and containers located behind the Facility as well as the F002 Wipers. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules, Env-Wm 100-1100.

Note: In a submittal dated November 7, 2005, Polar's representative, Steve Barnes, informed DES personnel that the contents of the drums and containers had been identified as an oil and water mixture, the drums were labeled, and the drums were moved inside the Facility.

In a subsequent submittal dated February 7, 2006, Polar's representative, Dennis O'Brien informed DES that arrangements have been made with Cyn Environmental Services for the disposal of the drums and containers.

On March 30, 2006, Polar's representative, Dennis O'Brien, provided copies of manifests showing that the drums and containers of used oil and water had been picked up and transported by Cyn Oil Corporation to Cyn Oil Corporation, Stoughton, MA.

*In a submittal dated February 7, 2006, Polar's representative, Dennis O'Brien stated that a non-hazardous product substitute, Simple Green, will be used as a replacement for the Grime-Solv. **No further action is required.***

15. Polar has ensured that all hazardous waste containers and tanks are clearly marked with the words "hazardous waste," words that identify the contents of the container, and the EPA or state waste number, as specified in Env-Wm 507.03(a)(1)b., c., and d.

*Note: In a submittal dated November 7, 2005, Polar's representative, Steve Barnes, informed DES personnel that the waste acetone container in the laboratory had been labeled with the words "Hazardous Waste" and the EPA waste code. **No further action is required.***

16. Polar has posted a "No Smoking" sign near ignitable wastes stored in the Laboratory as specified in Env-Wm 508.02(c).

*Note: In a submittal dated November 7, 2005, Polar's representative, Steve Barnes, informed DES personnel that a "No Smoking" sign has been posted on the entrance door to the laboratory. **No further action is required.***

17. Polar has ensured that the used oil discharge beneath the 1,500-gallon processing tank is contained and cleaned up as specified in Env-Wm 513.02(a).

*Note: In a telephone conversation on February 15, 2006, Dennis O'Brien, informed DES personnel that the used oil spill beneath 1,500-gallon process tank has been cleaned up. **No further action is required.***

18. Polar has ensured that all used oil containers and tanks are marked with the words "Used Oil for Recycle," as specified in Env-Wm 807.06(b)(4).

*Note: In a submittal dated November 7, 2005, Polar's representative, Steve Barnes, informed DES personnel that the used oil containers have been labeled. **No further action is required.***

19. Polar has ensured that all used oil containers and the tank are closed as specified in Env-Wm 807.06(b)(5).

*Note: In a submittal dated November 7, 2005, Polar's representative, Steve Barnes, informed DES personnel that the used oil containers and the tank have been closed. **No further action is required.***

20. Polar has ensured that a bill of lading meeting the requirements of Env-Wm 807.06(b)(13) is used when transporting used oil.

*Note: In a submittal dated February 7, 2006, Polar's representative, Dennis O'Brien, provided a copy of the bill of lading to be used by Polar and Polar's clients during the transportation of used oil. The bill of lading provided meets the requirements of Env-Wm 807.06(b)(13). **No further action is required.***

21. Polar has ensured that used oil received from off-site is sampled and analyzed for the parameters outlined in Env-Wm 807.02 and Env-Wm 807.03 as specified by Env-Wm 807.09(b)(3). These parameters include arsenic, cadmium, chromium, lead, flash point, polychlorinated biphenyls (PCBs) and total halogens. Per Env-Wm 807.06(b)(7) analysis for PCBs may be omitted if no sources of PCBs are present in the process generating the used oil.

*Note: In a submittal dated February 7, 2006, Polar's representative, Dennis O'Brien, stated that samples were taken and analyzed from two batches of used oil received by Polar in January. Polar also provided copies of the analyticals for the batches. Polar must continue to ensure that used oil received from off-site is sampled and analyzed for arsenic, cadmium, chromium, lead, flash point, PCBs and total halogens as required by Env-Wm 807.09(b)(3). **No further action is required.***

22. Polar has ensured that all universal waste lamps that have exceeded the one-year accumulation time limit are shipped off-site for recycling.

*Note: In a submittal dated March 30, 2006, Polar's representative, Dennis O'Brien, submitted documentation that the container of fluorescent lamps has been shipped off-site to Complete Recycling Solution, LLC, Fall River, MA. **No further action is required.***

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from DES's Public Information Center at (603) 271-2975 or at <http://www.des.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Polar of the obligation to comply with the Order.

G. OTHER PROVISIONS

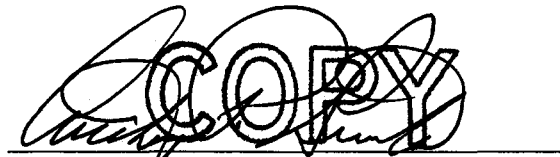
Please note that RSA Ch. 147-A provides for civil and criminal penalties and administrative fines for violations of the statute or any rule adopted by DES relative to the statute, as well as for violations of this Order. RSA 147-A:17 provides for civil forfeitures of up to \$50,000 for each day of a continuing violation, in addition to enforcement by injunctive relief.

DES will continue to monitor the compliance status of Polar to determine whether the Facility has come into, and is maintaining, full compliance with the applicable rules. Future violations will result in additional enforcement action being taken. Polar is required to maintain compliance with all on-going requirements, including those identified as having been corrected in Section E of the Order.

Polar may assert a confidentiality claim covering part or all of the information requested which constitutes a trade secret, in accordance with RSA 147-A:7, II. If no such claim accompanies the information when it is received by DES, it may be made available to the public by DES without further notice to Polar.

By copy of this Order, this matter is being referred to the DES Waste Management Division, Hazardous Waste Remediation Bureau, for investigation of possible violations of RSA 485-C.

This Order is being recorded in the Rockingham County Registry of Deeds so as to run with the land.



Anthony P. Giunta, P.G., Director
Waste Management Division



Michael P. Nolin, Commissioner
Department of Environmental Services

CERTIFIED MAIL/RRR# 7000 1670 0001 2907 8613

cc: DB/RCRA/ORDER/ARCHIVE
Gretchen Hamel, Administrator, DES Legal Unit
Anthony P. Giunta, P.G., Director, WMD/ Paul L. Heirtzler, P.E., Esq., Administrator, WMD
Public Information Coordinator, DES
Jennifer Patterson, NHDOJ-OAG
Joe Donovan, HWRB, DES
Cheryl McGary, SRCIS, DES
Town Clerk, South Hampton, NH
James Watkins Realty, 85 Exeter Road, South Hampton, NH 03827 (property owner)
Rockingham County Registry of Deeds

ec: John Duclos, Administrator, Hazardous Waste Compliance Bureau

Enclosures: Hazardous Waste Generator Inspection Report
Laboratory Analysis for the 275-gallon used oil tank